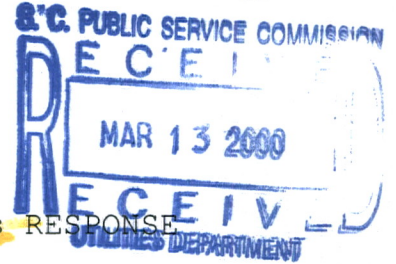


BEFORE THE  
PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA

DOCKET NO. 1999-469-C

In RE: )  
)  
Review of Proposed )  
Guidelines for Rates )  
Set by BellSouth )  
Telecommunications, Inc. )  
Pursuant to )  
S.C. Code Ann. § 58-9-576 )

REPLY TO AT&T'S RESPONSE  
TO BELL SOUTH'S  
MOTION TO STRIKE



BellSouth Telecommunications, Inc. ("BellSouth"), respectfully submits the following memorandum in reply to the response filed by AT&T Communications of the Southern States, Inc. ("AT&T") in opposition to BellSouth's motion to strike the testimony of Gregory J. Tate, pre-filed by AT&T. In reply, BellSouth submits the following:

1. On March 7, 2000, filed a motion requesting the Public Service Commission of South Carolina ("Commission") to strike Mr. Tate's testimony on the grounds that such testimony is irrelevant, immaterial, and beyond the scope of this docket. Mr. Tate's testimony is devoted to a discussion of BellSouth's switched access service rates. On March 10, 2000, BellSouth received AT&T's response to BellSouth's motion. In its response, AT&T contends that that BellSouth's motion should be denied because Mr. Tate's testimony demonstrates a possible violation of

S.C. Code Ann. § 58-9-576(B)(5), and "[t]he Commission should not wish to approve guidelines . . . with specific knowledge that BellSouth's rates may be in violation of § 58-9-576(5)." (AT&T's Response to BellSouth Motion to Strike, ¶ 4). Based on this Commission's rules and recent precedent, as well as South Carolina case law, BellSouth's motion to strike should be granted.

2. "A motion to strike is addressed to the sound discretion of the trial court; its decision will not be reversed absent a showing of abuse of discretion." Williams v. South Carolina National Bank, 326 S.E.2d 187, 188 (S.C. Ct. App. 1985), citing, Totaro v. Turner, 2543 S.E.2d 800 (S.C. 1979). The purpose of this docket is for this Commission to adopt certain guidelines for BellSouth pursuant to S.C. Code Ann. § 58-9-576(B)(5). Accordingly, it is well within the Commission's discretion to strike pre-filed testimony (like the testimony of Mr. Tate) that does not mention the word "guidelines" or refer to S.C. Code Ann. § 58-9-576.

3. The stated purpose of Mr. Tate's testimony "is to show that BellSouth is charging rates for switched access services that are (10) times greater than the amount it charges for the same functionality for Unbundled Network Elements." (Tate Testimony, p. 3, ll. 19-23). Additionally, Mr. Tate does not indicate that he has reviewed BellSouth's proposed guidelines or BellSouth's direct testimony. Accordingly, Mr. Tate's testimony

is irrelevant and immaterial and should be excluded from the record in accordance with the Commission's rules regarding the admissibility of evidence. 26 S.C.Code Ann.Regs 103-870 (1976) ("Irrelevant, immaterial or unduly repetitious evidence shall be excluded.")

4. Granting BellSouth's motion to strike is consistent with this Commission's ruling in Docket No. 1999-330-C, Order No. 2000-0048, dated January 12, 2000. In Order No. 2000-0048, the Commission granted BellSouth's motion to dismiss AT&T's complaint regarding BellSouth's switched access service rates. In granting BellSouth's motion, the Commission reasoned that AT&T's motion was premature until the Commission adopted guidelines for BellSouth pursuant to S.C. Code Ann. § 58-9-576(B)(5). "[W]e cannot consider the substance of AT&T's complaint on access charges until we establish the guidelines called for by the statute. . . . it would not be legal or proper to consider AT&T's Complaint prior to establishment of the guidelines called for in S.C. Code Ann. Section 58-9-576 (Supp. 1998)." Order No. 2000-0048, pp. 2-3 (emphasis added). In short, the guidelines must be established before a party can assert a violation of the statute. Accordingly, consistent with this Commission's recent Order dismissing AT&T's Complaint, BellSouth's motion should be granted. To deny BellSouth's motion would effectively render Commission Order No. 2000-0048 meaningless.

In summary, there is no doubt that Mr. Tate's testimony does not promote (or is even related to) the purpose of this docket. Moreover, allowing Mr. Tate's testimony into the record of this proceeding effectively nullifies Commission Order No. 2000-0048. Accordingly, the Commission should exercise its discretion, give effect to its recent ruling, and strike the testimony of Mr. Tate.

WHEREFORE, for the reasons stated above, it is respectfully submitted that the pre-filed testimony of Gregory J. Tate should be stricken in its entirety from this docket.

Respectfully submitted,

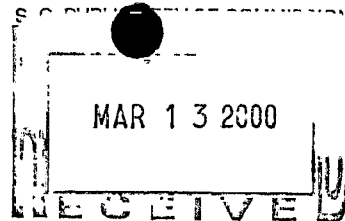
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March 13, 2000



STATE OF SOUTH CAROLINA )

) CERTIFICATE OF SERVICE

COUNTY OF RICHLAND )

The undersigned, Nyla M. Laney, hereby certifies that she is employed by the Legal Department for BellSouth Telecommunications, Inc. ("BellSouth") and that she has caused the Reply to AT&T's Response to BellSouth's Motion to Strike to be served via facsimile, hand delivery and/or by placing such in the care and custody of the United States Postal Service, with first-class postage affixed thereto and addressed to the following this March 13, 2000:

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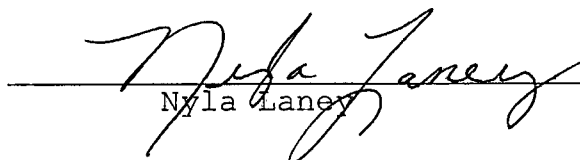
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